

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

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FIRST APPEAL No 2895 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GEB

Versus

URIBEN RANCHODBHAI

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Appearance:

MR HS MUNSHAW FOR THE APPELLANTS  
MR.GAURANG BHATT FOR THE RESPONDENTS

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CORAM : MR.JUSTICE N.J.PANDYA and  
MR.JUSTICE A.R.DAVE

Date of decision: 01/08/96

ORAL JUDGEMENT (Per N.J.Pandya,J.)

The plaintiffs have filed Special Civil Suit No.97 of 1993 for getting compensation in respect of death of Ranchhodbhai Muljibhai by electrocution. The

fact of electrocution could not be denied by the defendant-appellants, but the manner in which the incident occurred, according to the appellants, should have been brought before the trial Court so that possible contribution of the deceased towards the incident could be properly appreciated.

2. However, when a live electric wire is passing over an agricultural field and if it comes in contact with a person working in that field, obviously, the Electricity Board has to keep safeguards so that the incident does not occur. Over and above that, it is also expected that if there is a mishap, the current would switch off and there are safety devices for that. Apparently, so far as the incident is concerned, in absence of these safeguards, the electrocution has taken place and therefore, there is hardly any question of the deceased having contributed to the incident.

3. The appellants do have substantial contentions to advance as to the quantum assessed by the trial Court. The learned Civil Judge (SD) Gondal, who tried Special Civil Suit No.97 of 1993 has awarded compensation of Rs.2,50,000/- which is very much excessive. The reason is that the deceased, aged about 53 years or so, was working as an agriculturist, but while taking his total income into consideration for awarding compensation, an error has been committed by the trial Court. The error is clearly to the effect that the land over which the deceased was working at the time of the incident is left to the family and it is still being cultivated and if not, it can be cultivated and therefore, regular income by agricultural operations can be obtained.

4. At the same time, it cannot be denied that the experience of the deceased as an agriculturist and his personal supervision that he was rendering can be a loss to the family and only that is to be assessed for working out the compensation. Under the circumstances, looking to the fact that there are about 35 bighas of land, his contribution to the family is put at Rs.1,000/- per month and annually it would come to Rs.12,000/-. Looking to the age of the deceased, the multiple could be given is 11 only and not 15 as done by the trial Court. That will bring the figure to Rs.1,32,000/-.

5. The amount given by the trial Court towards death of two bullocks on account of electrocution will have to remain as it is i.e. Rs.15,000/-. Towards funeral expenses Rs.3,000/- are awarded and towards conventional sum Rs.15,000/- are awarded. Thus, the total

compensation works out to Rs.1,65,000/- with proportionate cost and interest as awarded by the trial Court. The decree passed by the trial Court is modified and the appeal is allowed to that extent. No order on Civil Application for stay. No order as to costs.

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